



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 97-73
June 6, 2002

REPRESENTATIONS AND CERTIFICATIONS AND EVALUATION PROVISIONS FOR NON-COMMERCIAL SIMPLIFIED ACQUISITIONS

BACKGROUND: Currently for commercial acquisitions, FAR provision 52.212-3, Offeror Representations and Certifications—Commercial Items, provides a consolidated set of representations and certifications. No equivalent provision exists for non-commercial items. This PN provides an equivalent provision, 1852.213-70 – Offeror Representations and Certifications—Other Than Commercial Items, for use with NASA's non-commercial acquisitions within the simplified acquisition threshold (SAT). This PN also incorporates a new provision 1852.213-71, Evaluation—Other Than Commercial Items, and a new section 1813.302-570, NASA solicitation provisions, which prescribes the use of the new provisions. Additionally, this PN restores language in section 1816.405-276 which was inadvertently omitted in PN 97-71.

ACQUISITIONS AFFECTED BY CHANGES: All non-commercial solicitations within the simplified acquisition threshold.

ACTION REQUIRED BY CONTRACTING OFFICERS: Solicitations for non-commercial acquisitions within the simplified acquisition threshold, issued after June 6, 2002, may include the new provision 1852.213-70 to obtain required representations and certifications; and the new provision 1852.213-71 to advise potential contractors how evaluation will be conducted when selection is based on other than technically acceptable low offer.

CLAUSE CHANGES: This PN adds the following new provisions:

- (a) 1852.213-70, Offeror Representations and Certifications—Other Than Commercial Items, basic and Alternates I, II, and III;
- (b) 1852.213-71, Evaluation—Other Than Commercial Items.

PARTS AFFECTED: Changes are made in Parts 1813, 1816, and 1852.

REPLACEMENT PAGES: You may use the enclosed pages to replace Part 13, 16:11, 16:12, 16:13, 52:1, 52:2, 52:3, 52:4, 52:4.1, 52:9, 52:10 (added) 52:10.1 (added), 52:10.2 (added), 52:10.3 (added), 52:10.4 (added), 52:10.5 (added), 52:10.6 (added), 52:10.7 (added), 52:10.8 (added), 52-91, 52-92, 52-93, 52-94, 52-95, 52-96, 52-97, and 52-98.

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Enclosures

DISTRIBUTION:
PN List

PART 1813

SIMPLIFIED ACQUISITION PROCEDURES

TABLE OF CONTENTS

1813.000	Scope of part.
1813.003	Policy.
SUBPART 1813.1	PROCEDURES
1813.106	Soliciting competition, evaluation of quotations or offers, and documentation.
1813.106-3	Award and documentation.
SUBPART 1813.3	SIMPLIFIED ACQUISITION METHODS
1813.301	Governmentwide commercial purchase card.
1813.301-70	Purchase card documentation.
1813.301-71	Training.
1813.301-72	Approving official.
1813.301-73	Program officials.
1813.302	Purchase orders.
1813.302-1	General.
1813.302-570	NASA solicitation provisions.
1813.302-70	Purchase orders under section 8(a) of the Small Business Act.
1813.303	Blanket Purchase Agreements (BPAs).
1813.303-3	Preparation of BPAs.
1813.307	Forms.

PART 1813

SIMPLIFIED ACQUISITION PROCEDURES

1813.000 Scope of part.

FAR Part 13 and 1813 do not apply to NASA Research Announcements (NRA) and Announcements of Opportunity (AO). These acquisitions shall be conducted in accordance with the procedures in 1835.016-71 and 1872, respectively. However, awards resulting from NRAs or AOs that are to be made as procurement instruments, can be made as either a contract or a purchase order. When a purchase order is used, it must not exceed the simplified acquisition threshold and must include the appropriate clauses pertaining to data rights, key personnel requirements, and any other requirements determined necessary by the contracting officer. Contracting officers must determine whether obtaining the contractor's acceptance of the order is necessary (see FAR 13.302-3(a)).

1813.003 Policy.

(g) Acquisitions under these simplified acquisition procedures shall be fixed-price, except as provided under the unpriced purchase order method in FAR 13.302-2.

Subpart 1813.1--Procedures

1813.106 Soliciting competition, evaluation of quotations or offers, award and documentation.

1813.106-3 Award and documentation.

(b) (3) (ii) For purchases up to \$50,000, documentation shall be limited to a brief notation in the file indicating the rationale for selecting other than the lowest priced offer.

Subpart 1813.3--Simplified Acquisition Methods

1813.301 Governmentwide commercial purchase card.

(a) The procurement officer or deputy procurement officer shall designate individual cardholders in accordance with center procedures, subject to the following limitations:

(i) Personnel other than contracting officers may be designated as cardholders for micro-purchases and for individual orders under BPAs up to \$5,000 (see 1813.303-3(a)(4)), provided they complete training adequate to ensure appropriate use of the purchase card.

(ii) The procurement officer's designation shall be in writing and shall specify the scope of the cardholder's authority.

(iii) The center shall establish and maintain administrative procedures and management controls required by the General Services Administration (GSA). Purchases made with the Governmentwide commercial purchase card shall comply with the instructions and procedures issued by GSA as well as applicable parts of the FAR and NFS.

(b) The Governmentwide commercial purchase card may be used to order and pay for purchases under contracts established under FAR Part 8 procedures, up to the simplified acquisition threshold (except see paragraph (a)(i) of this section for dollar limitations for personnel other than contracting officers).

(c) The Governmentwide commercial purchase card may be used to order and pay for purchases in the circumstances described in FAR 13.301(c) up to the simplified acquisition threshold (except see paragraph (a)(i) of this section for limitations for personnel other than contracting officers). Except as authorized in paragraphs (b) and (c) of this section, the Governmentwide commercial purchase card may not be used for purchases in excess of \$25,000. Purchases above the micro-purchase threshold shall comply with all applicable statutory and regulatory requirements, including the following:

(i) Small business set-aside (see FAR 13.003(b)).

(ii) Representations and certifications. The applicable items from the provision at FAR 52.212-3, Offeror Representations and Certifications--Commercial Items, shall be obtained for commercial or noncommercial purchases. This information may be obtained orally from vendors.

(iii) Maximum practicable competition (see FAR 13.106-1).

(iv) Implementation of the applicable contract clauses. This requirement may be satisfied by forwarding a completed SF 1449, appropriately modified to reflect purchase card terms, to the awardee after placing the order via the card, provided that the awardee must be notified of, and agree to, the applicability of the SF 1449 clauses when the order is placed.

1813.301-70 Purchase card documentation.

Documentation of purchases shall be minimized. For transactions below the micro-purchase threshold, the card holder shall maintain a brief log of purchases and a file of monthly purchase card statements indicating whether item receipt has occurred. For purchases above the micro-purchase threshold, see 1813.106-3(b)(3)(ii).

1813.301-71 Training.

All cardholders and approving officials must complete training prior to receiving a purchase card. Training will address the responsibilities of the cardholder and approving official, prohibited purchases, purchase limitations, and sources of supply.

1813.301-72 Approving official.

The approving official is the individual who reviews and approves a cardholder's monthly statement of purchases. The approving official shall be the cardholder's immediate or higher level supervisor; in no case shall cardholders approve their own statement of purchases. Unless center procedures otherwise provide for their designation, the procurement officer shall designate approving officials.

1813.301-73 Program officials.

(a) The Langley Research Center, Office of Procurement (Code AG), is the agency program coordinator.

(b) The procurement officer shall identify the center program coordinator and the center billing office point of contact, and provide their names to the agency program coordinator.

1813.302 Purchase orders.**1813.302-1 General.**

(a) See 1813.003(h).

1813.302-570 NASA solicitation provisions.

(a)(1) The contracting officer may use the provision at 1852.213-70, Offeror Representations and Certifications—Other Than Commercial Items, in simplified acquisitions exceeding the micro-purchase threshold that are for other than commercial items. This provision shall not be used for acquisitions conducted under FAR 13.5.

(2) This provision provides a single, consolidated list of certifications and representations for the acquisition of other than commercial items using simplified acquisition procedures and is attached to the solicitation for offerors to complete and return with their offer.

(i) Use the provision with its Alternate I in solicitations for acquisitions that are for, or specify the use of recovered materials (see FAR 23.4).

(ii) Use the provision with its Alternate II in solicitations for the acquisition of research, studies, supplies, or services of the type normally acquired from higher education institutions (see FAR 26.3).

(iii) Use the provision with its Alternate III in solicitation which include the clause at FAR 52.227-14, Rights in Data—General (see FAR 27.404(d)(2) and 1827.404(d)).

(b) The contracting officer may insert a provision substantially the same as the provision at 1852.213-71, Evaluation—Other than Commercial Items, in solicitations using simplified acquisition procedures for other than commercial items when evaluation factors are to be

included for evaluation and the selection will be based upon best value, rather than technically acceptable, low price. (See FAR 13.106.)

1813.302-70 Purchase orders under section 8(a) of the Small Business Act.

Purchase orders made using simplified acquisition procedures are authorized for 8(a) acquisitions under the simplified acquisition threshold.

1813.303 Blanket Purchase Agreements (BPAs)

1813.303-3 Preparation of BPAs.

(a)(4) Non-GS-1102 or -1105 personnel shall not be authorized to place individual orders under a BPA in an amount greater than \$5,000. For sole source orders above \$2,500, a contracting officer's determination is required in accordance with FAR 13.106-1(b)(1).

1813.307 Forms.

- (b) Installations may use locally prescribed forms.
- (c) Installations may use locally prescribed forms.
- (d) The SF 44 may be used for purchases of aviation fuel and oil of \$10,000 or less.

PART 1852
SOLICITATION PROVISIONS AND CONTRACT CLAUSES

TABLE OF CONTENTS

1852.000		Scope of part.
SUBPART	1852.1	INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES
1852.101		Using Part 52.
1852.103		Identification of provisions and clauses.
1852.103-70		Identification of modified provisions and clauses.
1852.104		Procedures for modifying and completing provisions and clauses.
SUBPART	1852.2	TEXTS OF PROVISIONS AND CLAUSES
1852.203-70		Display of Inspector General Hotline Posters.
1852.204-74		Central Contractor Registration.
1852.204-75		Security Classification Requirements.
1852.204-76		Security Requirements for Unclassified Information Technology Resources.
1852.208-81		Restrictions on Printing and Duplicating.
1852.209-70		Product Removal from Qualified Products List.
1852.209-71		Limitation of Future Contracting.
1852.209-72		Composition of the Contractor.
1852.211-70		Packaging, Handling, and Transportation.
1852.213-70		Offeror Representations and Certifications—Other Than Commercial Items.
1852.213-71		Evaluation—Other Than Commercial Items.
1852.214-70		Caution to Offerors Furnishing Descriptive Literature.
1852.214-71		Grouping for Aggregate Award.
1852.214-72		Full Quantities.
1852.215-77		Preproposal/Pre-bid Conference.
1852.215-78		Make or Buy Program Requirements.
1852.215-79		Price Adjustment for "Make-or-Buy" Changes.
1852.215-81		Proposal Page Limitations.
1852.215-84		Ombudsman.
1852.216-73		Estimated Cost and Cost Sharing.
1852.216-74		Estimated Cost and Fixed Fee.
1852.216-75		Payment of Fixed Fee.
1852.216-76		Award Fee for Service Contracts.
1852.216-77		Award Fee for End Item Contracts.
1852.216-78		Firm Fixed Price.
1852.216-80		Task Ordering Procedure.
1852.216-81		Estimated Cost.
1852.216-83		Fixed Price Incentive.

PROCUREMENT NOTICE (PN) 97-73 REPLACEMENT PAGE
52:2

1852.216-84	Estimated Cost and Incentive Fee.
1852.216-85	Estimated Cost and Award Fee.
1852.216-87	Submission of Vouchers for Payment.
1852.216-88	Performance Incentive.
1852.216-89	Assignment and Release Forms.
1852.217-70	Property Administration and Reporting.
1852.217-71	Phased Procurement Using Down-Selection Procedures.
1852.217-72	Phased Procurement Using Progressive Competition Down- Selection Procedures.
1852.219-73	Small Business Subcontracting Plan.
1852.219-74	Use of Rural Area Small Businesses.
1852.219-75	Small Business Subcontracting Reporting.
1852.219-76	NASA 8 Percent Goal.
1852.219-77	NASA Mentor-Protégé Program.
1852.219-79	Mentor Requirements and Evaluation.
1852.223-70	Safety and Health.
1852.223-71	Frequency Authorization.
1852.223-72	Safety and Health (Short Form).
1852.223-73	Safety and Health Plan.
1852.223-74	Drug- and Alcohol-Free Workforce.
1852.223-75	Major Breach of Safety or Security.
1852.225-8	Duty-Free Entry of Space Articles.
1852.225-70	Export Licenses.
1852.227-11	Patent Rights--Retention by the Contractor (Short Form).
1852.227-14	Rights in Data--General.
1852.227-17	Rights in Data--Special Works.
1852.227-19	Commercial Computer Software--Restricted Rights.
1852.227-70	New Technology.
1852.227-71	Requests for Waiver of Rights to Inventions.
1852.227-72	Designation of New Technology Representative and Patent Representative.
1852.227-84	Patent Rights Clauses.
1852.227-85	Invention Reporting and Rights--Foreign.
1852.227-86	Commercial Computer Software--Licensing.
1852.227-87	Transfer of Technical Data Under Space Station International Agreements.
1852.228-70	Aircraft Ground and Flight Risk.
1852.228-71	Aircraft Flight Risks.
1852.228-72	Cross-Waiver of Liability for Space Shuttle Services.
1852.228-73	Bid Bond.
1852.228-75	Minimum Insurance Coverage.
1852.228-76	Cross-Waiver of Liability for Space Station Activities.
1852.228-78	Cross-Waiver of Liability for NASA Expendable Launch Vehicle Launches.
1852.228-80	Insurance — Immunity From Tort Liability.
1852.228-81	Insurance — Partial Immunity From Tort Liability.

PROCUREMENT NOTICE (PN) 97-73 REPLACEMENT PAGE

52:3

1852.228-82	Insurance — Total Immunity From Tort Liability.
1852.231-70	Precontract Costs.
1852.231-71	Determination of Compensation Reasonableness.
1852.232-70	NASA Modification of FAR 52.232-12.
1852.232-77	Limitation of Funds (Fixed-Price Contract).
1852.232-79	Payment for On-Site Preparatory Costs.
1852.232-81	Contract Funding.
1852.232-82	Submission of Requests for Progress Payments.
1852.233-70	Protests to NASA.
1852.235-70	Center for AeroSpace Information - Final Scientific and Technical Reports.
1852.235-71	Key Personnel and Facilities.
1852.235-72	Instructions for Responding to NASA Research Announcements.
1852.236-71	Additive or Deductive Items.
1852.236-72	Bids with Unit Prices.
1852.236-73	Hurricane Plan.
1852.236-74	Magnitude of Requirement.
1852.236-75	Partnering for Construction Contracts.
1852.237-70	Emergency Evacuation Procedures.
1852.237-71	Pension Portability.
1852.239-70	Alternate Delivery Points.
1852.241-70	Renewal of Contract.
1852.242-70	Technical Direction.
1852.242-71	Travel Outside of the United States.
1852.242-72	Observance of Legal Holidays.
1852.242-73	NASA Contractor Financial Management Reporting.
1852.242-74	Notice of Earned Value Management System.
1852.242-75	Earned Value Management System.
1852.242-76	Modified Cost Performance Report.
1852.242-77	Modified Cost Performance Report Plans.
1852.242-78	Emergency Medical Services and Evacuation.
1852.243-70	Engineering Change Proposals.
1852.243-71	Shared Savings.
1852.243-72	Equitable Adjustments.
1852.244-70	Geographic Participation in the Aerospace Program.
1852.245-70	Contractor Requests for Government-Owned Equipment.
1852.245-71	Installation-Accountable Government Property.
1852.245-72	Liability for Government Property Furnished for Repair or Other Services.
1852.245-73	Financial Reporting of NASA Property in the Custody of Contractors.
1852.245-74	Contractor Accountable On-Site Government Property.
1852.245-75	Title to Equipment.
1852.245-76	List of Government-Furnished Property.
1852.245-77	List of Installation-Accountable Property and Services.

1852.245-79	Use of Government-Owned Property.	
1852.245-80	Use of Government Production and Research Property on a No-Charge Basis.	
1852.246-70	Mission Critical Space System Personnel Reliability Program.	
1852.246-71	Government Contract Quality Assurance.	
1852.246-72	Material Inspection and Receiving Report.	
1852.246-73	Human Space Flight Item.	
1852.247-71	Protection of the Florida Manatee.	
1852.247-72	Advance Notice of Shipment.	
1852.247-73	Bills of Lading.	
1852.249-72	Termination (Utilities).	
SUBPART	1852.3	PROVISION AND CLAUSE MATRIX
1852.300		Scope of Subpart.
1852.301		Solicitation Provisions and Contract Clauses (Matrix).

PART 1852

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.000 Scope of part.

This part, in conjunction with FAR Part 52, (a) sets forth the provisions and clauses prescribed in the NFS, (b) gives instructions for their use, and (c) presents a matrix listing the provisions and clauses applicable to each principal contract type and/or purpose (e.g., fixed-price supply, cost-reimbursement research and development).

Subpart 1852.1--Instructions for Using Provisions and Clauses

1852.101 Using Part 52.

(b)(2)(i)(B) NASA contracting offices prescribing or developing clauses shall ensure that the requirements of Subpart 1801.3 are met.

(e)(1) The NFS matrix in Subpart 1852.3 is formatted similarly to that in the FAR. The first page of the NFS matrix contains a key to column headings, a dollar threshold chart, and requirement symbols. To fully determine the applicability of a provision or clause in the "required-when-applicable" and "optional" categories, Contracting Officers shall refer to the NFS text (cited in the matrix) that prescribes its use.

(4) The NFS matrix may be reproduced by field installations for the purpose of supplementing it with installation-developed provisions and clauses.

1852.103 Identification of provisions and clauses.

(b) Provisions and clauses prescribed by a field installation to satisfy its needs shall be identified as stated in paragraphs (b)(i) and (ii) of this section. Articles, formats, and similar language shall be treated as provisions and clauses for purposes of this section 1852.103.

(i) A provision or clause shall be numbered using a prefix, a base, and a suffix. The prefix shall be an alphabetical abbreviation of the installation name (e.g., ARC, DFRC, GRC, GSFC, JSC, KSC, LARC, MSFC, SSC, or SSPO). The base shall be a numeric value beginning with

"52.2," with the next two digits corresponding to the number of the FAR or NFS subject part to which the provision or clause relates. The suffix shall be a hyphen and sequential number assigned within each part. NASA installations shall use suffix numbers from -90 to -199. For example, the first Johnson Space Center (JSC) provision or clause relating to Part 36 of the FAR or NFS shall be JSC 52.236-90, the second JSC 52.236-91, and so forth. Provisions and clauses shall be dated in accordance with FAR 52.101(f).

(ii) Contracting officers shall identify provisions and clauses as in the following examples:

(The next page is 52:5.)

(The next page is 52:5.)

1852.213-70 Offeror Representations and Certifications—Other Than Commercial Items.

As prescribed in 1813.302-570, insert the following provision:

**OFFEROR REPRESENTATIONS AND CERTIFICATIONS—OTHER THAN
COMMERCIAL ITEMS
(JUNE 2002)**

(a) *Definitions.* As used in this provision--

"Emerging small business" means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

"Forced or indentured child labor" means all work or service--

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

"Service-disabled veteran" means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Service-disabled veteran-owned small business concern" means a small business concern--

(1) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(2) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

"Veteran-owned small business concern" means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern--

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(b) *Taxpayer Identification Number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701).

(1) All offerors must submit the information required in paragraphs (b)(3) through (b)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationships with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904,

the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN).*

☐ TIN: _____.

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other _____.

(5) *Common parent.*

☐ Offeror is not owned or controlled by a common parent;

☐ Name and TIN of common parent:

Name _____.

TIN _____.

(c) Offerors must complete the following representations when the resulting contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) *Veteran-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it ☐ is, ☐ is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [] is, [] is not a women-owned small business concern.

(6) *Small Business Size for the Small Business Competitiveness Demonstration Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program.* [Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]

(i) [Complete only for solicitations indicated as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs).] The offeror represents as part of its offer that it ☐ is, ☐ is not an emerging small business.

(ii) [Complete only for solicitations indicated as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs).] Offeror represents as follows:

(A) Offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following):

NUMBER OF EMPLOYEES	AVERAGE ANNUAL GROSS REVENUES
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less
<input type="checkbox"/> 51-100	<input type="checkbox"/> \$1,000,001--\$2 million
<input type="checkbox"/> 101-250	<input type="checkbox"/> \$2,000,001--\$3.5 million
<input type="checkbox"/> 251-500	<input type="checkbox"/> \$3,500,001--\$5 million
<input type="checkbox"/> 501-750	<input type="checkbox"/> \$5,000,001--\$10 million
<input type="checkbox"/> 751-1000	<input type="checkbox"/> \$10,000,001--\$17 million
<input type="checkbox"/> Over 1000	<input type="checkbox"/> Over \$17 million

(7) *HUBZone small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that--

(i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(8) [Complete if dollar value of the resultant contract is expected to exceed \$25,000 and the offeror has represented itself as disadvantaged in paragraph (c)(4) of this provision.] *[The offeror shall check the category in which its ownership falls]:*

☐ Black American.
☐ Hispanic American.

- _____ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).
- _____ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
- _____ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
- _____ Individual/concern, other than one of the preceding.

(d) *Representations required to implement provisions of Executive Order 11246—*

(1) *Previous contracts and compliance.* The offeror represents that--

- (i) It [] has, [] has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and
- (ii) It [] has, [] has not filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that--

- (i) It [] has developed and has on file, [] has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR Parts 60-1 and 60-2), or
- (ii) It [] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Buy American Act--Balance of Payments Program Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American Act--Balance of Payments Program--Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (e)(2) of this provision, is a domestic end product as defined in the clause of this solicitation entitled "Buy American Act--Balance of Payments Program--Supplies" and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

(2) Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(f)(1) *Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program Certificate.* (Applies only if the clause at FAR 52.225-3, Buy American

Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (f)(1)(ii) or (f)(1)(iii) of this provision, is a domestic end product as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program" and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States.

(ii) The offeror certifies that the following supplies are NAFTA country end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program":

NAFTA Country or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (f)(1)(ii) of this provision) as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program." The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) *Buy American Act--North American Free Trade Agreements--Israeli Trade Act--Balance of Payments Program Certificate, Alternate I.* If Alternate I to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (f)(1)(ii) for paragraph (f)(1)(ii) of the basic provision:

(f)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program":

Canadian End Products:

Line Item No.

(List as necessary)

(3) *Buy American Act--North American Free Trade Agreements--Israeli Trade Act--Balance of Payments Program Certificate, Alternate II.* If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (f)(1)(ii) for paragraph (f)(1)(ii) of the basic provision:

(f)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program":

Canadian or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

[List as necessary]

(4) *Trade Agreements Certificate.* (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (f)(4)(ii) of this provision, is a U.S.-made, designated country, Caribbean Basin country, or NAFTA country end product, as defined in the clause of this solicitation entitled "Trade Agreements."

(ii) The offeror shall list as other end products those end products that are not U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products.

Other End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items subject to the Trade Agreements Act, the Government will evaluate offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The Government will consider for award only offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(g) *Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126).* [The Contracting Officer must list in paragraph (g)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at FAR 22.1503(b).]

(1) *Listed end products.*

Listed End Product	Listed Countries of Origin
_____	_____
_____	_____
_____	_____

(2) *Certification.* [If the Contracting Officer has identified end products and countries of origin in paragraph (g)(1) of this provision, then the offeror must certify to either (g)(2)(i) or (g)(2)(ii) by checking the appropriate block.]

[] (i) The offeror will not supply any end product listed in paragraph (g)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

[] (ii) The offeror may supply an end product listed in paragraph (g)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(End of provision)

ALTERNATE I (JUNE 2002)

As prescribed in 1813.302-570(a)(2), add the following paragraph to the end of the basic provision and identify appropriately:

() *Recovered Material Certification.* As required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(c)(3)(A)(i)), the offeror certifies, that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by the applicable contract specifications.

ALTERNATE II (JUNE 2002)

As prescribed in 1813.302-570(a)(2), add the following paragraph to the end of the basic provision and identify appropriately:

() *Historically Black College Or University And Minority Institution Representation.*

(1) *Definitions.* As used in this provision--

"Historically black college or university" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institution" means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

(2) *Representation.* The offeror represents that it--

[] is [] is not a historically black college or university;

[] is [] is not a minority institution.

ALTERNATE III

(JUNE 2002)

As prescribed in 1813.302-570(a)(2), add the following paragraph to the end of the basic provision and identify appropriately:

() *Representation Of Limited Rights Data And Restricted Computer Software.*

(1) This solicitation sets forth the work to be performed if a contract award results, and the Government's known delivery requirements for data (as defined in FAR 27.401). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at FAR 52.227-16, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data-General clause at FAR 52.227-14 that is to be included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor's facility.

(2) As an aid in determining the Government's need to include Alternate II or Alternate III in the clause at FAR 52.227-14, Rights in Data-General, the offeror shall complete paragraph (3) of this provision to either state that none of the data qualify as limited rights data or restricted computer software, or identify, to the extent feasible, which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of such data should a contract be awarded to the offeror.

(3) The offeror has reviewed the requirements for the delivery of data or software and states [offeror check appropriate block]--

[] None of the data proposed for fulfilling such requirements qualifies as limited rights data or restricted computer software.

[] Data proposed for fulfilling such requirements qualify as limited rights data or restricted computer software and are identified as follows:

Note: "Limited rights data" and "Restricted computer software" are defined in the contract clause entitled "Rights in Data-General."

1852.213-71 Evaluation--Other Than Commercial Items.

As prescribed in 1813.302-570(b) insert the following provision:

**EVALUATION—OTHER THAN COMMERCIAL ITEMS
(JUNE 2002)**

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

[Contracting Officer shall insert the evaluation factors, such as (i) technical capability of the item offered to meet the Government requirement; (ii) price; (iii) past performance (see FAR 15.304).]

(b) Options. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(End of provision)

1852.214-70 Caution to Offerors Furnishing Descriptive Literature.

As prescribed in 1814.201-670(a), insert the following provision:

**CAUTION TO OFFERORS FURNISHING
DESCRIPTIVE LITERATURE
(DECEMBER 1988)**

Bidders are cautioned against furnishing as a part of their bids descriptive literature that includes language reserving to the bidder the right to deviate from the requirements of the invitation for bids. Statements that "Data are subject to change without notice," "Prices subject to change without notice," or words having a similar effect are examples of such reservation. The Government will reject as nonresponsive any bid that incorporates literature containing such language or any bid that must be evaluated by using literature containing such language. Bidders should clearly label any submissions of descriptive literature not intended to form a part of a bid as such in order to preclude any need for the Government to interpret the bidder's intent in submitting descriptive literature. [See FAR 14.202-5.]

(End of provision)

1852.214-71 Grouping for Aggregate Award.

As prescribed in 1814.201-670(c), insert the following provision:

**GROUPING FOR AGGREGATE AWARD
(MARCH 1989)**

(a) The Government will evaluate offers and make award on a basis of the aggregate offers for items

[Insert the item numbers and/or descriptions].

The Government will not consider an offer for quantities less than those specified for these items.

(b) If this is an invitation for bids, the Government will reject as nonresponsive a bid that is not made on the total quantities for all of the items specified in paragraph (a) of this section.

(End of provision)

1852.214-72 Full Quantities.

As prescribed in 1814.201-670(b), insert the following provision:

FULL QUANTITIES

(DECEMBER 1988)

The Government will not consider an offer for quantities of items less than those specified. If this is an invitation for bids, the Government will reject as nonresponsive a bid that is not made on full quantities.

(End of provision)

provisionally paid is the lesser of a percentage stipulated in the contract (but not exceeding 80 percent) or the prior period's evaluation score. For an end item contract, the total amount of provisional payments in a period is limited to a percentage not to exceed 80 percent of the prior interim period's evaluation score.

(c) *Fee Payment.* The Fee Determination Official's rating for both interim and final evaluations will be provided to the contractor within 45 calendar days of the end of the period being evaluated. Any fee, interim or final, due the contractor will be paid no later than 60 calendar days after the end of the period being evaluated.

1816.406 Contract clauses.

1816.406-70 NASA contract clauses.

(a) As authorized by FAR 16.406(e), the contracting officer shall insert the clause at 1852.216-76, Award Fee for Service Contracts, in solicitations and contracts when an award-fee contract is contemplated and the contract deliverable is the performance of a service.

(b) As authorized by FAR 16.406(e), the contracting officer shall insert the clause at 1852.216-77, Award Fee for End Item Contracts, in solicitations and contracts when an award fee contract is contemplated and the contract deliverables are hardware or other end items for which total contractor performance cannot be measured until the end of the contract. When the clause is used in a fixed-price award-fee contract, it shall be modified by deleting references to base fee in paragraphs (a), and by deleting paragraph (c)(1), the last sentence of (c)(4), and the first sentence of (c)(5).

(c) The contracting officer may insert a clause substantially as stated at 1852.216-83, Fixed Price Incentive, in fixed-price-incentive solicitations and contracts utilizing firm or successive targets. For items subject to incentive price revision, identify the target cost, target profit, target price, and ceiling price for each item.

(d) The contracting officer shall insert the clause at 1852.216-84, Estimated Cost and Incentive Fee, in cost-plus-incentive-fee solicitations and contracts.

(e) The contracting officer may insert the clause at 1852.216-85, Estimated Cost and Award Fee, in award-fee solicitations and contracts. When the contract includes performance incentives, use Alternate I. When the clause is used in a fixed-price award fee contract, it shall be modified to delete references to base fee and to reflect the contract type.

(f) As provided at 1816.402-270, the contracting officer shall insert a clause substantially as stated at 1852.216-88, Performance Incentive, when the primary deliverable(s) is (are) hardware and total estimated cost and fee is greater than \$25 million. A clause substantially as stated at 1852.216-88 may be included in lower dollar value hardware contracts with the approval of the procurement officer.

Subpart 1816.5--Indefinite-Delivery Contracts

1816.504 Indefinite quantity contracts.

(a)(4)(ii) ID/IQ service contract values and task order values shall be expressed only in dollars.

(a)(4)(v) See 1815.7003.

1816.505 Ordering.

(a)(2) Task and delivery orders shall be issued by the contracting officer.

(b)(5) The Agency and installation ombudsmen designated in accordance with 1815.7001 shall review complaints from contractors on task order contracts and delivery order contracts.

1816.505-70 Task ordering.

(a) The contracting officer shall, to the maximum extent possible, state task order requirements in terms of functions and the related performance and quality standards such that the standards may be objectively measured.

(b) To the maximum extent possible, contracting officers shall solicit contractor task plans to use as the basis for finalizing task order requirements and enable evaluation and pricing of the contractor's proposed work on a performance based approach as described in 1816.104-70(a).

(c) Task order contract type shall be individually determined, based on the nature of each task order's requirements.

(1) Task orders may be grouped by contract type for administrative convenience (e.g., all CPIF orders, all FFP orders, etc.) for contractor progress and cost reporting.

(2) Under multiple awards, solicitations for individual task plans shall request the same pricing structure from all offerors.

(d) Any undefinitized task order issued under paragraph (f) of the clause at 1852.216-80, Task Ordering Procedure, shall be treated and reported as an undefinitized contract action in accordance with 1843.70.

1816.506-70 NASA contract clause.

Insert the clause at 1852.216-80, Task Ordering Procedure, in solicitations and contracts when an indefinite-delivery, task order contract is contemplated. The clause is applicable to both fixed-price and cost-reimbursement type contracts. If the contract does not require 533M reporting (see NPG 9501.2, NASA Contractor Financial Management Reporting System), use the clause with its Alternate I.

Subpart 1816.6--Time-and-Materials, Labor-Hour, and Letter Contracts

1816.603 Letter contracts.

1816.603-2 Application.

(a) Centers must ensure that NASA liabilities and commitments are minimized under letter contracts. When a letter contract is justified and program requirements can be severed into smaller, discreet efforts, the work authorized by the letter contract must be limited to the minimum severable effort required to satisfy the urgent program requirements. The remaining requirements may not be initially included in the letter contract and must be acquired through a separate fully priced and definitized contract action.

1816.603-370 Approvals.

(a)(1) The approval authority to issue a letter contract is --

(i) The Assistant Administrator for Procurement when the estimated value of the definitized contract is equal to or greater than the Master Buy Plan (MBP) submission threshold of 1807.7101;

(ii) The procurement officer when the estimated value of the definitized contract is below the MBP submission threshold; and

(iii) The Assistant Administrator for Procurement for any modification of an undefinitized letter contract approved by the procurement officer that increases the estimated value of the definitized contract to an amount equal to or above the MBP submission threshold. This approval must be obtained prior to issuing the modification.

(2) The procurement officer must sign all requests for approval by the Assistant Administrator for Procurement and submit them to Code HS.

(b) All requests for authority to issue a letter contract must include the following:

- (1) Contractor name and address.
- (2) Place of performance.
- (3) Contract number, including modification number, if applicable.
- (4) Brief description of the work or services to be performed.
- (5) Performance period or delivery schedule for both the letter contract and definitized contract.
- (6) Estimated value of the work authorized by the letter contract.
- (7) Estimated value of the definitized contract.
- (8) Contract type of the definitized contract.
- (9) A statement that the definitized contract will contain all required clauses or identification of approved specific clause deviations.
- (10) Complete justification of the necessity for the letter contract, including the advantages to the Government and a description of the efforts to avoid its issuance or to minimize its scope.
- (11) The definitization schedule described in FAR 16.603-2(c) expected to be negotiated with the contractor.

